

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 3 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**DEFENDANTS' MOTION TO EXCLUDE
CERTAIN GENERAL OPINIONS OF BRUCE ROSENZWEIG, M.D.**

Defendants Ethicon, Inc., Ethicon LLC, and Johnson & Johnson (hereinafter “Defendants”) move to exclude certain general opinions of one of Plaintiffs’ experts, Bruce Rosenzweig, M.D., that are improper and/or are beyond his expertise as a pelvic surgeon and urogynecologist. Specifically, Defendants request that the Court preclude Dr. Rosenzweig from:

(1) Testifying that non-synthetic mesh procedures are a safer alternative for the surgical treatment of stress urinary incontinence and pelvic organ prolapse, and/or that Defendants’ devices are less safe than those alternatives, because such procedures are not alternative designs and are irrelevant to a design-defect claim and because such opinions are irrelevant and unreliable; (2) Offering design opinions and testifying that other synthetic mesh devices are safer alternatives for the surgical treatment of stress urinary incontinence or pelvic organ prolapse, because he is not qualified to do so and his opinions are unreliable and not offered within a reasonable degree of medical certainty; (3) Offering warning opinions, because such opinions are unsupported, unreliable, irrelevant, inadmissible, and Dr. Rosenzweig is not qualified to offer warning opinions; (4) Testifying about alleged mesh degradation and other biomaterials

opinions, because he is not qualified to do so and such opinions are unreliable, irrelevant, and/or otherwise improper; (5) Testifying about duties allegedly owed by a manufacturer, because he is not qualified to do so and such opinions unreliable and amount to legal conclusions; (6) Offering criticisms of the cut of TVT mesh, because he is not qualified to do so and such opinions are conflicting, unsupported, and unreliable; (7) Offering marketing opinions that are irrelevant and unhelpful and are based on a summary of Ethicon documents; (8) Testifying about the MSDS sheet as Dr. Rosenzweig is not qualified to offer such opinions and they are unreliable and prejudicial; (9) Testifying about certain alleged complications associated with the TVT-Abbrevio product, because such opinions are wholly unsupported and unreliable; and (10) Offering opinions beyond Dr. Rosenzweig's expertise and/or otherwise improper, because he is not qualified to do so and such opinions are speculative and unreliable.

As grounds for this motion, Defendants submit that Dr. Rosenzweig cannot provide reliable, trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). In support of this motion, Defendants incorporate by reference the exhibits filed in support of Defendants' Wave 1 motion to exclude Dr. Rosenzweig, *see* Doc. 2047, and related Reply brief, *see* Doc. 2241.

WHEREFORE, FOR THESE REASONS and as more fully set forth in Ethicon's supporting memorandum of law, Ethicon respectfully requests that this Court enter an order granting Ethicon's Motion to Exclude the Testimony of Dr. Bruce Rosenzweig, M.D.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on this day I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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